

CONFERENCE COMMITTEE REPORT DIGEST FOR ESB 355

Citations Affected: IC 6-1.1; IC 14-33-10-3; IC 36-9-37-19; IC 36-9-37-20.

Synopsis: Taxation. With the approval of the county fiscal body, allows a civil taxing unit or school corporation to file a property tax levy appeal to offset a levy shortfall in the preceding year before March 1 of the year the tax is due. For property taxes payable in 2006, establishes a deadline of April 1 instead of March 1. If such an appeal is filed, allows the county treasurer to either: (1) send tax statements on schedule and send later reconciling statements; or (2) delay tax statements up to 60 days pending resolution of the appeal. Allows a county council to petition the department of local government finance to establish an installment plan for property tax payments (without requiring the petition to be approved by the county treasurer and county auditor). Reduces the penalty for a late installment of property taxes from 10% to 5%, if (1) the late installment is completely paid on or before the date 30 days after the installment due date; and (2) the taxpayer is not also liable for delinquent property taxes first due and payable in a previous year for the same parcel. Permits in 2006 an additional deduction against adjusted gross income for the payment of delayed property taxes in taxable year 2005. Provides for a waiver by the county treasurer of a property tax late payment penalty if the taxpayer or an immediate family member of the taxpayer died in the week preceding the installment due date. Allows an appeal of a penalty waiver denial. **(This conference committee report deletes a code section and adds a noncode section to permit in 2006 an additional deduction against adjusted gross income for the payment of delayed property taxes in taxable year 2005.)**

Effective: Upon passage; January 1, 2006 (retroactive); July 1, 2006; January 1, 2007.

CONFERENCE COMMITTEE REPORT

MADAM PRESIDENT:

Your Conference Committee appointed to confer with a like committee from the House upon Engrossed House Amendments to Engrossed Senate Bill No. 355 respectfully reports that said two committees have conferred and agreed as follows to wit:

that the Senate recede from its dissent from all House amendments and that the Senate now concur in all House amendments to the bill and that the bill be further amended as follows:

- 1 Delete everything after the enacting clause and insert the following:
- 2 SECTION 1. IC 6-1.1-1-8 IS AMENDED TO READ AS
- 3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. "General assessment
- 4 provisions of this article" means the law contained in:
- 5 (1) chapters 3, 4, 5, 9, 11, 13, 14, 15, 16, 28, 31, and 35 of this
- 6 article;
- 7 (2) sections 4, 6, 7, 8, 11, 12, and 13 of chapter 30 of this article;
- 8 (3) sections 1 through 7, inclusive, of chapter 36 of this article; and
- 9 (4) sections 2, 3, 7, 8, 9, **10.7**, 11, 12, and 13 of chapter 37 of this
- 10 article.
- 11 SECTION 2. IC 6-1.1-18.5-12 IS AMENDED TO READ AS
- 12 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 12. (a) Any civil
- 13 taxing unit that determines that it cannot carry out its governmental
- 14 functions for an ensuing calendar year under the levy limitations
- 15 imposed by section 3 of this chapter may:
- 16 (1) before September 20 **of the calendar year immediately**
- 17 **preceding the ensuing calendar year;** or
- 18 (2) in the case of a request described in section 16 of this chapter,
- 19 before:
- 20 **(A) December 31 of the calendar year immediately preceding the**
- 21 **ensuing calendar year; or**

(B) with the approval of the county fiscal body of the county in which the civil taxing unit is located, March 1 of the ensuing calendar year;

appeal to the department of local government finance for relief from those levy limitations. In the appeal the civil taxing unit must state that it will be unable to carry out the governmental functions committed to it by law unless it is given the authority that it is petitioning for. The civil taxing unit must support these allegations by reasonably detailed statements of fact.

(b) The department of local government finance shall promptly deliver to the local government tax control board every appeal petition it receives under subsection (a) and any materials it receives relevant to those appeals. Upon receipt of an appeal petition, the local government tax control board shall immediately proceed to the examination and consideration of the merits of the civil taxing unit's appeal.

(c) In considering an appeal, the local government tax control board has the power to conduct hearings, require any officer or member of the appealing civil taxing unit to appear before it, or require any officer or member of the appealing civil taxing unit to provide the board with any relevant records or books.

(d) If an officer or member:

(1) fails to appear at a hearing of the local government tax control board after having been given written notice from the local government tax control board requiring ~~his~~ **that person's** attendance; or

(2) fails to produce for the local government tax control board's use the books and records that the local government tax control board by written notice required the officer or member to produce;

then the local government tax control board may file an affidavit in the circuit court in the jurisdiction in which the officer or member may be found setting forth the facts of the failure.

(e) Upon the filing of an affidavit under subsection (d), the circuit court shall promptly issue a summons, and the sheriff of the county within which the circuit court is sitting shall serve the summons. The summons must command the officer or member to appear before the local government tax control board, to provide information to the local government tax control board, or to produce books and records for the local government tax control board's use, as the case may be. Disobedience of the summons constitutes, and is punishable as, a contempt of the circuit court that issued the summons.

(f) All expenses incident to the filing of an affidavit under subsection (d) and the issuance and service of a summons shall be charged to the officer or member against whom the summons is issued, unless the circuit court finds that the officer or member was acting in good faith and with reasonable cause. If the circuit court finds that the officer or member was acting in good faith and with reasonable cause or if an affidavit is filed and no summons is issued, the expenses shall be charged against the county in which the affidavit was filed and shall be allowed by the proper fiscal officers of that county.

(g) The fiscal officer of a civil taxing unit that appeals under section 16 of this chapter for relief from levy limitations shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 3. IC 6-1.1-19-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A county board of tax adjustment may not approve or recommend the approval of an excessive tax levy.

(b) If a school corporation adopts or advertises an excessive tax levy, the county board of tax adjustment which reviews the school corporation's budget, tax levy, and tax rate shall reduce the excessive tax levy to the maximum normal tax levy.

(c) If a county board of tax adjustment approves, or recommends the approval of, an excessive tax levy for a school corporation, the auditor of the county for which the county board is acting shall reduce the excessive tax levy to the maximum normal tax levy. Such a reduction shall be set out in the notice required to be published by the auditor under IC 6-1.1-17-12, and an appeal shall be permitted therefrom as provided under IC 6-1.1-17 as modified by this chapter.

(d) Appeals from any action of a county board of tax adjustment or county auditor in respect of a school corporation's budget, tax levy, or tax rate may be taken as provided for by IC 6-1.1-17. Notwithstanding IC 6-1.1-17, a school corporation may appeal to the department of local government finance for emergency financial relief for the ensuing calendar year at any time before:

(1) September 20 of the calendar year immediately preceding the ensuing calendar year; or

(2) in the case of a request described in section 4.7(a) of this chapter:

(A) December 31 of the calendar year immediately preceding the ensuing calendar year; or

(B) with the approval of the county fiscal body of the county in which the school corporation is located, March 1 of the ensuing calendar year.

(e) In the appeal petition in which a school corporation seeks emergency financial relief, the appellant school corporation shall allege that, unless it is given the emergency financial relief for which it petitions, it will be unable to carry out, in the ensuing calendar year, the public educational duty committed to it by law, and it shall support that allegation by reasonably detailed statements of fact.

(f) When an appeal petition in which a school corporation petitions for emergency financial relief is filed with the department of local government finance, the department shall include, in the notice of the hearing in respect of the petition that it is required to give under IC 6-1.1-17-16, a statement to the effect that the appellant school corporation is seeking emergency financial relief for the ensuing calendar year. A subsequent action taken by the department of local government finance in respect of such an appeal petition is not invalid,

however, or otherwise affected, if the department fails to include such a statement in the hearing notice.

(g) The fiscal officer of a school corporation that appeals under section 4.7(a) of this chapter for relief from levy limitations under this chapter shall immediately file a copy of the appeal petition with the county auditor and the county treasurer of the county in which the unit is located.

SECTION 4. IC 6-1.1-21-2, AS AMENDED BY P.L.1-2005, SECTION 92, AND AS AMENDED BY P.L.246-2005, SECTION 64, IS CORRECTED AND AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. As used in this chapter:

(a) "Taxpayer" means a person who is liable for taxes on property assessed under this article.

(b) "Taxes" means property taxes payable in respect to property assessed under this article. The term does not include special assessments, penalties, or interest, but does include any special charges which a county treasurer combines with all other taxes in the preparation and delivery of the tax statements required under IC 6-1.1-22-8(a).

(c) "Department" means the department of state revenue.

(d) "Auditor's abstract" means the annual report prepared by each county auditor which under IC 6-1.1-22-5 is to be filed ~~on or before March 1~~ of each year with the auditor of state.

(e) "Mobile home assessments" means the assessments of mobile homes made under IC 6-1.1-7.

(f) "Postabstract adjustments" means adjustments in taxes made subsequent to the filing of an auditor's abstract which change assessments therein or add assessments of omitted property affecting taxes for such assessment year.

(g) "Total county tax levy" means the sum of:

(1) the remainder of:

(A) the aggregate levy of all taxes for all taxing units in a county which are to be paid in the county for a stated assessment year as reflected by the auditor's abstract for the assessment year, adjusted, however, for any postabstract adjustments which change the amount of the aggregate levy; minus

(B) the sum of any increases in property tax levies of taxing units of the county that result from appeals described in:

(i) IC 6-1.1-18.5-13(4) and IC 6-1.1-18.5-13(5) filed after December 31, 1982; plus

(ii) the sum of any increases in property tax levies of taxing units of the county that result from any other appeals described in IC 6-1.1-18.5-13 filed after December 31, 1983; plus

(iii) IC 6-1.1-18.6-3 (children in need of services and delinquent children who are wards of the county); minus

(C) the total amount of property taxes imposed for the stated assessment year by the taxing units of the county under the authority of IC 12-1-11.5 (repealed), IC 12-2-4.5 (repealed), IC 12-19-5, or IC 12-20-24; minus

(D) the total amount of property taxes to be paid during the stated assessment year that will be used to pay for interest or principal due on debt that:

- (i) is entered into after December 31, 1983;
- (ii) is not debt that is issued under IC 5-1-5 to refund debt incurred before January 1, 1984; and
- (iii) does not constitute debt entered into for the purpose of building, repairing, or altering school buildings for which the requirements of IC 20-5-52 (*repealed*) were satisfied prior to January 1, 1984; minus

(E) the amount of property taxes imposed in the county for the stated assessment year under the authority of IC 21-2-6 (*repealed*) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(F) the remainder of:

- (i) the total property taxes imposed in the county for the stated assessment year under authority of IC 21-2-6 (*repealed*) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus
- (ii) the total property taxes imposed in the county for the 1984 stated assessment year under the authority of IC 21-2-6 (*repealed*) or any citation listed in IC 6-1.1-18.5-9.8 for a cumulative building fund whose property tax rate was not initially established or reestablished for a stated assessment year that succeeds the 1983 stated assessment year; minus

(G) the amount of property taxes imposed in the county for the stated assessment year under:

- (i) IC 21-2-15 for a capital projects fund; plus
- (ii) IC 6-1.1-19-10 for a racial balance fund; plus
- (iii) ~~IC 20-14-13~~ IC 36-12-12 for a library capital projects fund; plus
- (iv) ~~IC 20-5-17.5-3~~ IC 36-10-13-7 for an art association fund; plus
- (v) IC 21-2-17 for a special education preschool fund; plus
- (vi) IC 21-2-11.6 for a referendum tax levy fund; plus
- (vii) an appeal filed under IC 6-1.1-19-5.1 for an increase in a school corporation's maximum permissible general fund levy for certain transfer tuition costs; plus
- (viii) an appeal filed under IC 6-1.1-19-5.4 for an increase in a school corporation's maximum permissible general fund levy for transportation operating costs; minus

(H) the amount of property taxes imposed by a school corporation that is attributable to the passage, after 1983, of a referendum for an excessive tax levy under IC 6-1.1-19, including any increases in these property taxes that are

- 1 attributable to the adjustment set forth in IC 6-1.1-19-1.5 or any
 2 other law; minus
 3 (I) for each township in the county, the lesser of:
 4 (i) the sum of the amount determined in IC 6-1.1-18.5-19(a)
 5 STEP THREE or IC 6-1.1-18.5-19(b) STEP THREE,
 6 whichever is applicable, plus the part, if any, of the township's
 7 ad valorem property tax levy for calendar year 1989 that
 8 represents increases in that levy that resulted from an appeal
 9 described in IC 6-1.1-18.5-13(4) filed after December 31,
 10 1982; or
 11 (ii) the amount of property taxes imposed in the township for
 12 the stated assessment year under the authority of IC 36-8-13-4;
 13 minus
 14 (J) for each participating unit in a fire protection territory
 15 established under IC 36-8-19-1, the amount of property taxes
 16 levied by each participating unit under IC 36-8-19-8 and
 17 IC 36-8-19-8.5 less the maximum levy limit for each of the
 18 participating units that would have otherwise been available for
 19 fire protection services under IC 6-1.1-18.5-3 and
 20 IC 6-1.1-18.5-19 for that same year; minus
 21 (K) for each county, the sum of:
 22 (i) the amount of property taxes imposed in the county for the
 23 repayment of loans under IC 12-19-5-6 (repealed) that is
 24 included in the amount determined under IC 12-19-7-4(a)
 25 STEP SEVEN for property taxes payable in 1995, or for
 26 property taxes payable in each year after 1995, the amount
 27 determined under IC 12-19-7-4(b); and
 28 (ii) the amount of property taxes imposed in the county
 29 attributable to appeals granted under IC 6-1.1-18.6-3 that is
 30 included in the amount determined under IC 12-19-7-4(a)
 31 STEP SEVEN for property taxes payable in 1995, or the
 32 amount determined under IC 12-19-7-4(b) for property taxes
 33 payable in each year after 1995; plus
 34 (2) all taxes to be paid in the county in respect to mobile home
 35 assessments currently assessed for the year in which the taxes
 36 stated in the abstract are to be paid; plus
 37 (3) the amounts, if any, of county adjusted gross income taxes that
 38 were applied by the taxing units in the county as property tax
 39 replacement credits to reduce the individual levies of the taxing
 40 units for the assessment year, as provided in IC 6-3.5-1.1; plus
 41 (4) the amounts, if any, by which the maximum permissible ad
 42 valorem property tax levies of the taxing units of the county were
 43 reduced under IC 6-1.1-18.5-3(b) STEP EIGHT for the stated
 44 assessment year; plus
 45 (5) the difference between:
 46 (A) the amount determined in IC 6-1.1-18.5-3(e) STEP FOUR;
 47 minus
 48 (B) the amount the civil taxing units' levies were increased
 49 because of the reduction in the civil taxing units' base year

1 certified shares under IC 6-1.1-18.5-3(e).

2 (h) "December settlement sheet" means the certificate of settlement
3 filed by the county auditor with the auditor of state, as required under
4 IC 6-1.1-27-3.

5 (i) "Tax duplicate" means the roll of property taxes which each county
6 auditor is required to prepare ~~on or before March 1 of~~ each year under
7 IC 6-1.1-22-3.

8 (j) "Eligible property tax replacement amount" is, *except as otherwise*
9 *provided by law*, equal to the sum of the following:

10 (1) Sixty percent (60%) of the total county tax levy imposed by
11 each school corporation in a county for its general fund for a stated
12 assessment year.

13 (2) Twenty percent (20%) of the total county tax levy (less sixty
14 percent (60%) of the levy for the general fund of a school
15 corporation that is part of the total county tax levy) imposed in a
16 county on real property for a stated assessment year.

17 (3) Twenty percent (20%) of the total county tax levy (less sixty
18 percent (60%) of the levy for the general fund of a school
19 corporation that is part of the total county tax levy) imposed in a
20 county on tangible personal property, excluding business personal
21 property, for an assessment year.

22 (k) "Business personal property" means tangible personal property
23 (other than real property) that is being:

24 (1) held for sale in the ordinary course of a trade or business; or
25 (2) held, used, or consumed in connection with the production of
26 income.

27 (l) "Taxpayer's property tax replacement credit amount" means,
28 *except as otherwise provided by law*, the sum of the following:

29 (1) Sixty percent (60%) of a taxpayer's tax liability in a calendar
30 year for taxes imposed by a school corporation for its general fund
31 for a stated assessment year.

32 (2) Twenty percent (20%) of a taxpayer's tax liability for a stated
33 assessment year for a total county tax levy (less sixty percent
34 (60%) of the levy for the general fund of a school corporation that
35 is part of the total county tax levy) on real property.

36 (3) Twenty percent (20%) of a taxpayer's tax liability for a stated
37 assessment year for a total county tax levy (less sixty percent
38 (60%) of the levy for the general fund of a school corporation that
39 is part of the total county tax levy) on tangible personal property
40 other than business personal property.

41 (m) "Tax liability" means tax liability as described in section 5 of this
42 chapter.

43 (n) "General school operating levy" means the ad valorem property
44 tax levy of a school corporation in a county for the school corporation's
45 general fund.

46 (o) "Board" refers to the property tax replacement fund board
47 established under section 10 of this chapter.

48 SECTION 5. IC 6-1.1-22-3 IS AMENDED TO READ AS
49 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) **Except as**

provided in subsection (b), the auditor of each county shall, before March 15 of each year, prepare a roll of property taxes payable in that year for the county. This roll shall be known as the "tax duplicate" and shall show:

- (1) the value of all the assessed property of the county;
- (2) the person liable for the taxes on the assessed property; and
- (3) any other information that the state board of accounts, with the advice and approval of the department of local government finance, may prescribe.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall complete preparation of the tax duplicate when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor completes preparation of the tax duplicate under subsection (a), the county auditor shall prepare a revised tax duplicate when the appeal is resolved by the department of local government finance that reflects the action of the department.

~~(b)~~ **(d) The county auditor shall comply with the instructions issued by the state board of accounts for the preparation, preservation, alteration, and maintenance of the tax duplicate. The county auditor shall deliver a copy of the tax duplicate prepared under subsection (a) to the county treasurer before March 1 of each year: when preparation of the tax duplicate is completed.**

SECTION 6. IC 6-1.1-22-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. **(a) Except as provided in subsections (b) and (c),** on or before March 15 of each year, the county auditor shall prepare and deliver to the auditor of state and the county treasurer a certified copy of an abstract of the property, assessments, taxes, deductions, and exemptions for taxes payable in that year in each taxing district of the county. The county auditor shall prepare the abstract in such a manner that the information concerning property tax deductions reflects the total amount of each type of deduction. The abstract shall also contain a statement of the taxes and penalties unpaid in each taxing unit at the time of the last settlement between the county auditor and county treasurer and the status of these delinquencies. The county auditor shall prepare the abstract on the form prescribed by the state board of accounts. The auditor of state, county auditor, and county treasurer shall each keep a copy of the abstract in ~~his office~~ as a public record.

(b) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver the certified copy of the abstract when the appeal is resolved by the department of local government finance.

(c) If the county auditor receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) after the county auditor prepares and delivers the certified copy of the abstract under subsection (a), the county auditor shall prepare and deliver a certified copy of a revised abstract when the appeal is resolved by the department of local government finance that reflects the action of the department.

SECTION 7. IC 6-1.1-22-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9. (a) Except as provided in ~~IC 6-1.1-7-7~~, section 9.5 of this chapter, and subsections (b) and (c) the property taxes assessed for a year under this article are due in two (2) equal installments on May 10 and November 10 of the following year.

(b) Subsection (a) does not apply if any of the following apply to the property taxes assessed for the year under this article:

(1) Subsection (c).

(2) Subsection (d).

(3) IC 6-1.1-7-7.

(4) Section 9.5 of this chapter.

~~(b)~~ (c) A county council may adopt an ordinance to require a person to pay the person's property tax liability in one (1) installment, if the tax liability for a particular year is less than twenty-five dollars (\$25). If the county council has adopted such an ordinance, then whenever a tax statement mailed under section 8 of this chapter shows that the person's property tax liability for a year is less than twenty-five dollars (\$25) for the property covered by that statement, the tax liability for that year is due in one (1) installment on May 10 of that year.

(d) If the county treasurer receives a copy of an appeal petition under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) before the county treasurer mails or transmits statements under section 8(a) of this chapter, the county auditor may:

(1) mail or transmit the statements without regard to the pendency of the appeal and, if the resolution of the appeal by the department of local government finance results in changes in levies, mail or transmit reconciling statements under subsection (e); or

(2) delay the mailing or transmission of statements under section 8(a) of this chapter so that:

(A) the due date of the first installment that would otherwise be due under subsection (a) is delayed by not more than sixty (60) days; and

(B) all statements reflect any changes in levies that result from the resolution of the appeal by the department of local government finance.

(e) A reconciling statement under subsection (d)(1) must indicate:

(1) the total amount due for the year;

(2) the total amount of the installments paid that did not reflect the resolution of the appeal under IC 6-1.1-18.5-12(g) or IC 6-1.1-19-2(g) by the department of local government

1 **finance;**

2 **(3) if the amount under subdivision (1) exceeds the amount**
 3 **under subdivision (2), the adjusted amount that is payable by**
 4 **the taxpayer:**

5 **(A) as a final reconciliation of all amounts due for the year;**
 6 **and**

7 **(B) not later than:**

8 **(i) November 10; or**

9 **(ii) the date or dates established under section 9.5 of this**
 10 **chapter; and**

11 **(4) if the amount under subdivision (2) exceeds the amount**
 12 **under subdivision (1), that the taxpayer may claim a refund of**
 13 **the excess under IC 6-1.1-26.**

14 ~~(c)~~ **(f)** If property taxes are not paid on or before the due date, the
 15 penalties prescribed in IC 6-1.1-37-10 shall be added to the delinquent
 16 taxes.

17 ~~(d)~~ **(g)** Notwithstanding any other law, a property tax liability of less
 18 than five dollars (\$5) is increased to five dollars (\$5). The difference
 19 between the actual liability and the five dollar (\$5) amount that appears
 20 on the statement is a statement processing charge. The statement
 21 processing charge is considered a part of the tax liability.

22 SECTION 8. IC 6-1.1-22-9.5 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 9.5. (a) This
 24 section applies only to property taxes first due and payable in a year
 25 that begins after December 31, 2003:

26 (1) with respect to a homestead (as defined in IC 6-1.1-20.9-1); and

27 (2) that are not payable in one (1) installment under ~~section 9(b)~~
 28 **section 9(c)** of this chapter.

29 (b) At any time before the mailing or transmission of tax statements
 30 for a year under section 8 of this chapter, a county may petition the
 31 department of local government finance to establish a schedule of
 32 installments for the payment of property taxes with respect to:

33 (1) real property that are based on the assessment of the property
 34 in the immediately preceding year; or

35 (2) a mobile home or manufactured home that is not assessed as
 36 real property that are based on the assessment of the property in the
 37 current year.

38 The county fiscal body (as defined in IC 36-1-2-6) ~~the county auditor,~~
 39 ~~and the county treasurer~~ must approve a petition under this subsection.

40 (c) The department of local government finance:

41 (1) may not establish a date for:

42 (A) an installment payment that is earlier than May 10 of the year
 43 in which the tax statement is mailed or transmitted;

44 (B) the first installment payment that is later than November 10
 45 of the year in which the tax statement is mailed or transmitted; or

46 (C) the last installment payment that is later than May 10 of the
 47 year immediately following the year in which the tax statement is
 48 mailed or transmitted; and

49 (2) shall:

- (A) prescribe the form of the petition under subsection (b);
- (B) determine the information required on the form; and
- (C) notify the county fiscal body, the county auditor, and the county treasurer of the department's determination on the petition not later than twenty (20) days after receiving the petition.

(d) Revenue from property taxes paid under this section in the year immediately following the year in which the tax statement is mailed or transmitted under section 8 of this chapter:

- (1) is not considered in the determination of a levy excess under IC 6-1.1-18.5-17 or IC 6-1.1-19-1.7 for the year in which the property taxes are paid; and

(2) may be:

- (A) used to repay temporary loans entered into by a political subdivision for; and

- (B) expended for any other reason by a political subdivision in the year the revenue is received under an appropriation from;

the year in which the tax statement is mailed or transmitted under section 8 of this chapter.

SECTION 9. IC 6-1.1-22.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) **Except as provided in subsection (c)**, with respect to property taxes payable under this article on assessments determined for the 2003 assessment date or the assessment date in any later year, the county treasurer may, except as provided by section 7 of this chapter, use a provisional statement under this chapter if the county auditor fails to deliver the abstract for that assessment date to the county treasurer under IC 6-1.1-22-5 before March 16 of the year following the assessment date.

(b) The county treasurer shall give notice of the provisional statement, including disclosure of the method that is to be used in determining the tax liability to be indicated on the provisional statement, by publication one (1) time:

- (1) in the form prescribed by the department of local government finance; and

- (2) in the manner described in IC 6-1.1-22-4(b).

The notice may be combined with the notice required under section 10 of this chapter.

(c) Subsection (a) does not apply if the county auditor fails to deliver the abstract as provided in IC 6-1.1-22-5(b).

SECTION 10. IC 6-1.1-37-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. (a) This section applies when:

- (1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were originally due;

- (2) the assessment upon which a taxpayer has been paying taxes under IC 6-1.1-15-10(a)(1) or ~~(a)(2)~~ **IC 6-1.1-15-10(a)(2)** while a petition for review or a judicial proceeding has been pending is less than the assessment that results from the final determination of the

petition for review or judicial proceeding; or
 (3) the collection of certain ad valorem property taxes has been stayed under IC 4-21.5-5-9, and under the final determination of the petition for judicial review the taxpayer is liable for at least part of those taxes.

(b) Except as provided in subsections (c) and (g), a taxpayer shall pay interest on the taxes the taxpayer is required to pay as a result of an action or a determination described in subsection (a) at the rate of ten percent (10%) per year from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(c) Except as provided in subsection (g), a taxpayer shall pay interest on the taxes the taxpayer is ultimately required to pay in excess of the amount that the taxpayer is required to pay under IC 6-1.1-15-10(a)(1) while a petition for review or a judicial proceeding has been pending at the overpayment rate established under Section 6621(c)(1) of the Internal Revenue Code in effect on the original due date or dates for those taxes from the original due date or dates for those taxes to:

- (1) the date of payment; or
- (2) the date on which penalties for the late payment of a tax installment may be charged under subsection (e) or (f);

whichever occurs first.

(d) With respect to an action or determination described in subsection (a), the taxpayer shall pay the taxes resulting from that action or determination and the interest prescribed under subsection (b) or (c) on or before:

- (1) the next May 10; or
- (2) the next November 10;

whichever occurs first.

(e) A taxpayer shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on the day after the date for payment prescribed in subsection (d) if:

- (1) the taxpayer has not paid the amount of taxes resulting from the action or determination; and
- (2) the taxpayer either:
 - (A) received notice of the taxes the taxpayer is required to pay as a result of the action or determination at least thirty (30) days before the date for payment; or
 - (B) voluntarily signed and filed an assessment return for the taxes.

(f) If subsection (e) does not apply, a taxpayer who has not paid the amount of taxes resulting from the action or determination shall, to the extent that the penalty is not waived under section 10.5 or 10.7 of this chapter, begin paying the penalty prescribed in section 10 of this chapter on:

(1) the next May 10 which follows the date for payment prescribed in subsection (d); or

(2) the next November 10 which follows the date for payment prescribed in subsection (d);

whichever occurs first.

(g) A taxpayer is not subject to the payment of interest on real property assessments under subsection (b) or (c) if:

(1) an assessment is made or increased after the date or dates on which the taxes for the year for which the assessment is made were due;

(2) the assessment or the assessment increase is made as the result of error or neglect by the assessor or by any other official involved with the assessment of property or the collection of property taxes; and

(3) the assessment:

(A) would have been made on the normal assessment date if the error or neglect had not occurred; or

(B) increase would have been included in the assessment on the normal annual assessment date if the error or neglect had not occurred.

SECTION 11. IC 6-1.1-37-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 10. (a) Except as provided in ~~section 10.5~~ **sections 10.5 and 10.7** of this chapter, if an installment of property taxes is not completely paid on or before the due date, a penalty ~~equal to ten percent (10%) of the amount of delinquent taxes~~ shall be added to the unpaid portion in the year of the initial delinquency. **The penalty is equal to an amount determined as follows:**

(1) If:

(A) an installment of property taxes is completely paid on or before the date thirty (30) days after the due date; and

(B) the taxpayer is not liable for delinquent property taxes first due and payable in a previous year for the same parcel; the amount of the penalty is equal to five percent (5%) of the amount of delinquent taxes.

(2) If subdivision (1) does not apply, the amount of the penalty is equal to ten percent (10%) of the amount of delinquent taxes.

(b) With respect to property taxes due in two (2) equal installments under IC 6-1.1-22-9(a), on the day immediately following the due dates in May and November of each year following the year of the initial delinquency, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added. With respect to property taxes due in installments under IC 6-1.1-22-9.5, an additional penalty equal to ten percent (10%) of any taxes remaining unpaid shall be added on the day immediately following each date that succeeds the last installment due date by:

(1) six (6) months; or

(2) a multiple of six (6) months.

(c) The penalties under subsection (b) are imposed only on the

1 principal amount of the delinquent taxes.

2 (d) If the department of local government finance determines that an
3 emergency has occurred which precludes the mailing of the tax
4 statement in any county at the time set forth in IC 6-1.1-22-8, the
5 department shall establish by order a new date on which the installment
6 of taxes in that county is due and no installment is delinquent if paid by
7 the date so established.

8 (e) If any due date falls on a Saturday, a Sunday, a national legal
9 holiday recognized by the federal government, or a statewide holiday,
10 the act that must be performed by that date is timely if performed by the
11 next succeeding day that is not a Saturday, a Sunday, or one (1) of those
12 holidays.

13 (f) A payment to the county treasurer is considered to have been paid
14 by the due date if the payment is:

15 (1) received on or before the due date to the county treasurer or a
16 collecting agent appointed by the county treasurer;

17 (2) deposited in the United States mail:

18 (A) properly addressed to the principal office of the county
19 treasurer;

20 (B) with sufficient postage; and

21 (C) certified or postmarked by the United States Postal Service
22 as mailed on or before the due date; or

23 (3) deposited with a nationally recognized express parcel carrier
24 and is:

25 (A) properly addressed to the principal office of the county
26 treasurer; and

27 (B) verified by the express parcel carrier as:

28 (i) paid in full for final delivery; and

29 (ii) received on or before the due date.

30 For purposes of this subsection, "postmarked" does not mean the date
31 printed by a postage meter that affixes postage to the envelope or
32 package containing a payment.

33 SECTION 12. IC 6-1.1-37-10.7 IS ADDED TO THE INDIANA
34 CODE AS A NEW SECTION TO READ AS FOLLOWS
35 [EFFECTIVE JULY 1, 2006]: **Sec. 10.7. (a) For purposes of this**
36 **section, "immediate family member of the taxpayer" means an**
37 **individual who:**

38 (1) **is the spouse, child, stepchild, parent, or stepparent of the**
39 **taxpayer, including adoptive relationships; and**

40 (2) **resides in the taxpayer's home.**

41 **(b) The county treasurer shall do the following:**

42 (1) **Waive the penalty imposed under section 10(a) of this**
43 **chapter if the taxpayer or the taxpayer's representative:**

44 (A) **petitions the county treasurer to waive the penalty not**
45 **later than thirty (30) days after the due date of the**
46 **installment subject to the penalty; and**

47 (B) **files with the petition written proof that during the seven**
48 **(7) day period ending on the installment due date the**
49 **taxpayer or an immediate family member of the taxpayer**

died.

(2) Give written notice to the taxpayer or the taxpayer's representative by mail of the treasurer's determination on the petition not later than thirty (30) days after the petition is filed with the treasurer.

(c) The department of local government finance shall prescribe:

(1) the form of the petition; and

(2) the type of written proof;

required under subsection (b).

(d) A taxpayer or a taxpayer's representative may appeal a determination of the county treasurer under subsection (b) to deny a penalty waiver by requesting in writing a preliminary conference with the treasurer not more than forty-five (45) days after the treasurer gives the taxpayer or the taxpayer's representative notice of the determination. An appeal initiated under this subsection is processed and determined in the same manner that an appeal is processed and determined under IC 6-1.1-15.

SECTION 13. IC 14-33-10-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 3. (a) An assessment not paid in full shall be paid in annual installments over the time commensurate with the term of the bond issue or other financing determined by resolution adopted by the board. Interest shall be charged on the unpaid balance at the same rate per year as the penalty charged on delinquent property tax payments under ~~IC 6-1.1-37-10~~. **IC 6-1.1-37-10(a)**. All payments of installments, interest, and penalties shall be entered on the assessment roll in the office of the district.

(b) Upon payment in full of the assessment, including interest and penalties, the board shall have the lien released and satisfied on the records in the office of the recorder of the county in which the real property assessed is located.

(c) The procedure for collecting assessments for maintenance and operation is the same as for the original assessment, except that the assessments may not be paid in installments.

SECTION 14. IC 36-9-36-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 37. (a) Except as provided in section 38 of this chapter, the entire assessment is payable in cash without interest not later than thirty (30) days after the approval of the assessment roll by the works board if an agreement has not been signed and filed under section 36 of this chapter.

(b) If the assessment is not paid when due, the total assessment becomes delinquent and bears interest at the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)** per year from the date of the final acceptance of the completed improvement by the works board.

SECTION 15. IC 36-9-36-55 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 55. (a) An irregularity or error in making a foreclosure sale under this chapter does not make the sale ineffective, unless the irregularity or error substantially prejudiced the property owner.

(b) A property owner has two (2) years from the date of sale in which

to redeem the owner's property. The property owner may redeem the owner's property by paying the principal, interest, and costs of the judgment, plus interest on the principal, interest, and costs at the rate prescribed by ~~IC 6-1.1-37-10~~. **IC 6-1.1-37-10(a).**

(c) If the property is not redeemed, the sheriff shall execute a deed to the purchaser. The deed relates back to the final letting of the contract for the improvement and is superior to all liens, claims, and interests, except liens for taxes.

SECTION 16. IC 36-9-37-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 19. (a) If a person defaults in the payment of a waived installment of principal or interest of an assessment, the municipal fiscal officer shall mail notice of the default to the person. The notice must meet the following conditions:

(1) Be mailed not more than sixty (60) days after the default.

(2) Show the amount of the default, plus interest on that amount for the number of months the person is in default at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10~~. **IC 6-1.1-37-10(a).**

(3) State that the amount of the default, plus interest, is due by the date determined as follows:

(A) If the person selected monthly installments under ~~IC 36-9-37-8.5(a)(1)~~, **section 8.5(a)(2) of this chapter**, within sixty (60) days after the date the notice is mailed.

(B) If the person selected annual installments under ~~IC 36-9-37-8.5(a)(2)~~, **section 8.5(a)(1) of this chapter**, within six (6) months after the date the notice is mailed.

(b) A notice that is mailed to the person in whose name the property is assessed and addressed to the person within the municipality is sufficient notice. However, the fiscal officer shall also attempt to determine the name and address of the current owner of the property and send a similar notice to the current owner.

(c) Failure to send the notice required by this section does not preclude or otherwise affect the following:

(1) The sale of the property for delinquency as prescribed by IC 6-1.1-24.

(2) The foreclosure of the assessment lien by the bondholder.

(3) The preservation of the assessment lien under section 22.5 of this chapter.

SECTION 17. IC 36-9-37-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2007]: Sec. 20. (a) If any principal and interest, or an installment of principal and interest, is not paid in full when due, the municipal fiscal officer shall enforce payment of the following:

(1) The unpaid amount of principal and interest.

(2) A penalty of interest at the rate prescribed by subsection (b).

(b) If payment is made after a default, the municipal fiscal officer shall also collect a penalty of interest on the delinquent amount at one-half (1/2) the rate prescribed by ~~IC 6-1.1-37-10~~ **IC 6-1.1-37-10(a)** for each six (6) month period, or fraction of a six (6) month period, from the date when payment should have been made.

1 SECTION 18. [EFFECTIVE JANUARY 1, 2007] **IC 6-1.1-37-10,**
 2 **as amended by this act, applies only to ad valorem property taxes**
 3 **first due and payable after December 31, 2006.**

4 SECTION 19. [EFFECTIVE UPON PASSAGE] (a) **For ad**
 5 **valorem property taxes and assessments first due and payable in**
 6 **2006:**

7 (1) **notwithstanding IC 6-1.1-18.5-12, as amended by this act,**
 8 **that section applies as if the date in IC 6-1.1-18.5-12(a)(2)(B)**
 9 **were April 1 instead of March 1; and**

10 (2) **notwithstanding IC 6-1.1-19-2, as amended by this act, that**
 11 **section applies as if the date in IC 6-1.1-19-2(d)(2)(B) were**
 12 **April 1 instead of March 1.**

13 (b) **This SECTION expires January 1, 2007.**

14 SECTION 20. [EFFECTIVE UPON PASSAGE] **IC 6-1.1-18.5-12,**
 15 **IC 6-1.1-19-2, IC 6-1.1-21-2, IC 6-1.1-22-3, IC 6-1.1-22-5,**
 16 **IC 6-1.1-22-9, IC 6-1.1-22-9.5, and IC 6-1.1-22.5-6, all as amended**
 17 **by this act, apply only to property taxes first due and payable after**
 18 **December 31, 2005.**

19 SECTION 21. [EFFECTIVE JULY 1, 2006] **IC 6-1.1-37-10.7, as**
 20 **added by this act, applies only to property taxes first due and**
 21 **payable after December 31, 2006.**

22 SECTION 22. [EFFECTIVE JANUARY 1, 2006
 23 (RETROACTIVE)] (a) **As used in this SECTION, "taxable year"**
 24 **has the meaning set forth in IC 6-3-1-16.**

25 (b) **In addition to any other deduction permitted under IC 6-3, a**
 26 **delayed property tax payment paid in taxable year 2005 for**
 27 **property taxes assessed in 2002, 2003, or 2004 assessment years:**

28 (1) **that would have been payable in 2003, 2004, or a part of**
 29 **calendar year 2005 that preceded the beginning of the**
 30 **taxpayer's 2005 taxable year if tax statements had been issued**
 31 **in those years; and**

32 (2) **where the taxpayer was not delinquent in remitting the**
 33 **property tax to the county treasurer when paid in taxable year**
 34 **2005;**

35 **is deductible from adjusted gross income under IC 6-3-1-3.5 in the**
 36 **2006 taxable year if the property tax was not deducted in any**
 37 **previous taxable year. The amount of the deduction for the**
 38 **property taxes due for a particular assessment year is limited to**
 39 **the lesser of the property tax paid for the assessment year or two**
 40 **thousand five hundred dollars (\$2,500).**

41 SECTION 23. **An emergency is declared for this act.**

42 Renumber all SECTIONS consecutively.

(Reference is to ESB 355 as reprinted February 28, 2006.)

Conference Committee Report
on
Engrossed Senate Bill 355

Signed by:

Senator Lawson C
Chairperson

Representative Ayres

Senator Rogers

Representative Kuzman

Senate Conferees

House Conferees